

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.4893 of 2014

Date of Decision:28.04.2017

Ram Phal Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Surender Lamba, Advocate for the petitioner.

Mr. Sushil Gautam, D.A.G. Haryana.

Mr. R.K. Malik, Sr. Advocate with
Mr. Bhupinder Malik, Advocate for respondent No.3.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the validity of ranking assigned to respondent No.3 over and above the petitioner in the cadre of Drivers (confirmed drivers of Ministers Car Section) in the Transport Department.

The petitioner was appointed as a Driver on ad-hoc basis on 12.1.1994. His services were regularized vide order dated 18.7.2002 with effect from 12.1.1994. Whereas respondent No.3 joined the services in the Haryana Roadways on 21.4.1993. Respondent No.3 was transferred to Transport department on deputation and his services were repatriated on 14.6.1996 and further once again, he was transferred to Transport department on 7.1.1997 on deputation.

Admittedly, Ministers Car Section and the Haryana Roadways are different wings in the Haryana Transport Department. Therefore, petitioner's service condition would be governed only in the Ministers Car Section so also respondent No.3 in the Haryana Roadways. The petitioner is

stated to have been confirmed driver and he was promoted to the post of Supervisor on 1.11.2007. In the meanwhile, the official respondents have prepared a tentative seniority list on 15.7.2004 in which name of the petitioner was figured at serial No.3. Whereas name of respondent No.3 was figured at serial No.5. Thereafter, on 23.08.2006, one more tentative seniority list was prepared in which also the name of the petitioner was over and above respondent No.3. On 5.3.2014, official respondents have notified seniority list in which the name of the petitioner has been shown at serial No.7. Whereas name of respondent No.3 was shown at serial No.4. Thus, the present petition has been filed by the petitioner questioning the ranking assigned to respondent No.3.

It is undisputed fact that under the Haryana Transport Department, there are number of wings. The Ministers Car Section is one wing and other wing is Haryana Roadways. The petitioner and respondent No.3 belong to the above respective wing. Respondent No.3 could not have been shown in the seniority list of Ministers Car Section for the reasons that services of respondent No.3 are governed under the Haryana Roadways. Even though if he is on deputation to Ministers Car Section, he has to go back to the Haryana Roadways. In other words, his deputation is for a particular period. In the absence of absorption order in the Ministers Car Section insofar as respondent No.3 is concerned, he has no right to seek ranking or seniority in the cadre of confirmed drivers of Ministers Car Section. That apart name of the petitioner has been shown all along over and above respondent No.3 in the seniority list notified on 15.7.2004 and 23.8.2006. Respondent No.3 has not filed his objection for placing the petitioner over and above respondent No.3. Further the petitioner is not

aggrieved by the tentative seniority list notified on 15.7.2004 and 23.8.2006 as he has no grouse against ranking assigned to respondent No.3 for the reasons that respondent No.3 has been placed below the petitioner. In the absence of granting an opportunity of hearing to the petitioner altering his ranking vide impugned seniority list dated 5.3.2014 which is disadvantage to the petitioner. Such alteration of ranking is without hearing the petitioner.

Having regard to the above facts and circumstances, respondent No.3 has no right to seek seniority in the cadre of confirmed drivers in the Ministers Car Section in the absence of absorption in the Ministers Car Section.

Learned State counsel fairly submitted that services of respondent No.3 have not been absorbed in the Ministers Car Section.

Consequently, impugned order dated 5.3.2014 (Annexure P-13) assigning ranking to respondent No.3 is set aside. The official respondents are directed to re-assign the seniority to the petitioner in the seniority list dated 5.3.2014 at appropriate place and extend consequential benefits. Respondent No.3 is to be accommodated in the Haryana Roadways' seniority list and not in the Ministers Car Section.

To that extent, petition stands allowed.

28.04.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**